

HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SONIA JOSEPH, individually and as Special
Administrator of the ESTATE OF GIOVONN
JOSEPH-MCDADE, and GIOVANNI
MCDADE, individually,

Plaintiffs,

v.

CITY OF KENT, a Washington Municipality;
CITY OF KENT POLICE DEPARTMENT;
WILLIAM DAVIS; MATTHEW RAUSCH;
and JOHN DOES 1-10

Defendants.

Case No. 2:20-cv-00771-BJR

PRAECIPE TO PLAINTIFFS'
RESPONSE TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT (DKT. NO. 27)

Defendants relied in seeking summary judgment on the compelled (*Garrity*) statements of Officers William Davis and Matthew Rausch—*see* Dkt. No. 22 (Decl. of William Davis in Supp. of Def.'s Mot. for Summ. J., attaching compelled statement) *and* Dkt. No. 23 (Decl. of Matthew Rausch in Supp. of Def.'s Mot. for Summ. J., attaching compelled statement). The Defendant Officers have also testified from those same statements, in the singular final form in which they have been presented to Plaintiffs in discovery.¹ However, it has come to light during the recently-conducted discovery depositions of Mr. Davis and Mr. Rausch that there were earlier draft versions of those statements and notes authored by the Officers—independently and

¹ *See* Wright Decl., Ex. 1-2, Excerpts of the Deposition Testimony of William Davis and Matthew Rausch.

1 distinct from communication with, or influence of, defense counsel—which were prepared closer
 2 in time to the June 24, 2017, incident at issue in this case.²

3 Plaintiffs consequently present this Praecipe pursuant to Local Rules W.D. Wash. LCR
 4 7(m) to supplement the summary judgment record with portions of the deposition testimony of
 5 Defendant Officers William Davis and Matthew Rausch, taken on December 10 and 16, 2020,
 6 respectively. At the time Plaintiffs filed their Response to Defendants' Motion for Summary
 7 Judgment, Dkt. No. 27, the depositions of Officers Davis and Rausch had not yet been conducted
 8 and, consequently, transcripts of their deposition testimony was not available for submission to
 9 the Court.

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 11 Prior to filing the instant Praecipe, Plaintiffs certify that counsel conferred telephonically
 12 regarding Plaintiffs' intention to supplement the summary judgment record with the deposition
 13 testimony of Mr. Davis and Mr. Rausch pertaining to the destruction and withholding of
 14 evidence, specifically, notes and drafts of the Officers' compelled statements.³

15 DATED this 22nd day of December 2020, at Seattle, Washington.

16 SCHROETER, GOLDMARK & BENDER

17
 18 By: s/ Craig A. Sims

CRAIG A. SIMS, WSBA #28267

KAITLIN T. WRIGHT, WSBA #45241

810 Third Avenue, Suite 500

Seattle, WA 98104

Phone: (206) 622-8000

Fax: (206) 682-2305

Email: sims@sgb-law.com

wright@sgb-law.com

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 25 ² *Id.*, Ex. 1, Excerpts of the Dep. William Davis, Dec. 10, 2020, at 82:2-84:7, 85:14-86:2, 86:5-1, 87:1-88:10; Ex. 2,
 Excerpts of the Dep. Matthew Rausch, Dec. 16, 2020, at 136:21-138:20, 139:18-25, 140:9-12, 193:21-194:21,
 195:14-197:21, 198:19-199:15, 199:24-200:19.

26 ³ *Id.*, Ex. 3, Letter dated Dec. 21, 2020, to defense counsel, Mr. Chen and Mr. Estes, from Plaintiffs' counsel Mr.
 Sims and Ms. Wright.

P. BOSMANS LAW

By: s/ Patricia Bosmans

PATRICIA BOSMANS, WSBA #9148

1607 25th Street Pl SE

Puyallup, WA 98372-7112

Phone: (253) 230-4737

Fax: (888) 235-6120

Email: PBosmans_Law@outlook.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing and submitted courtesy copies via email to the following:

Stewart A. Estes, WSBA #15535

Derek C. Chen, WSBA #49723

KEATING, BUCKLIN & MCCORMACK

The Norton Building

801 Second Avenue, Suite 1210

Seattle, WA 98104

Phone: 206.623.8861

Fax: 206.223.9423

Email: sestes@kbmlawyers.com

dchen@kbmlawyers.com

☐ Via Facsimile

☒ Via First Class Mail

☐ Via Messenger

☒ Via Email

☐ Via Process Service

*Counsel for Defendants City of Kent, City of
Kent Police Department, William Davis, and
Matthew Rausch*

DATED this 12th day of November, 2020, at Seattle, Washington

s/ Matthew Gonyea

Matthew Gonyea,

Senior Litigation Paralegal

810 Third Avenue, Suite 500

Seattle, WA 98104

Tel: (206) 622-8000

Email: gonyea@sgb-law.com